



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3501 FAX (603) 271-6683



Brendan Forsley
PO Box 128
Bristol, NH 03222

) ADMINISTRATIVE ORDER
NO. WD 2001-26
July 16, 2001

RE: 61 West Shore Road

A INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division, , pursuant to RSA 485-A:42. This order is effective on issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 6 Hazen Drive, Concord, New Hampshire.
2. Brendan Forsley is an individual having a mailing address of P.O. Box 128, Bristol, NH 03222.

C. STATEMENT OF FACTS AND LAW

1. RSA 485-A:29-44 authorizes DES to regulate the subdivision of land and the construction, maintenance, and repair/replacement of individual subsurface sewage disposal systems ("septic systems") thereon. Pursuant to rulemaking authority conferred thereby, the Commissioner of DES has adopted Env-Ws 1000 to implement this program.
2. RSA 485-A:41, IV authorizes DES to adopt rules to implement the subsurface sewage disposal program. Pursuant to this authority, DES has adopted NH Admin. Rules Env-Ws 1000.
3. Brendan Forsley is the owner of record of a certain property located at 61 West Shore Road, in the Town of Bristol, NH and more particularly identified as Lot #57 on Tax Map 110 ("the Property").
4. On February 13, 2001, DES personnel inspected the Property. The inspection revealed that a perforated PVC plastic pipe had been placed on the Property within 8 feet of the septic leachfield located on the Property, with its open end located within 25 feet of the septic leachfield located on the Palmer property that directly abuts the Property.

5. Env-Ws 1008.04(a) requires a minimum distance of 75 feet between leachfields and open culvert piping (perforated PVC plastic pipe), and a minimum distance of 35 feet between foundation drain outfalls and leachfields.
6. When informed by a Letter of Deficiency (WD SS 2001-02) dated February 14, 2001 of the required separation, Mr. Forsley agreed to remove and relocate the perforated PVC pipe when the ground was sufficiently thawed to allow the removal and relocation.
7. DES personnel met with Mr. Forsley at the DES office in Concord on February 20, 2001. During that meeting, Mr. Forsley reiterated his commitment to remove and relocate the perforated PVC pipe once the ground had thawed sufficiently to allow the work to be done.
8. On April 25, 2001, DES issued a follow up letter to Mr. Forsley. The letter reminded Mr. Forsley of his commitment to remove the pipe, and noted that water was again flowing from the pipe onto the Palmers' leachfield. The letter stated that, if the pipe was not removed within one week, DES would take further enforcement action to remedy the situation.
9. As of July 12, 2001, Mr. Forsley had not removed the pipe.

D. DETERMINATION OF VIOLATIONS

1. Brendan Forsley has violated Env-Ws 1008.04 by locating a foundation drain outfall within 35 feet of the Palmers' leachfield, and within 35 feet of his leachfield.

E. ORDER

Based upon the above findings and determinations, DES hereby orders Brendan Forsley as follows:

1. Within 7 calendar days of the date of this Order, either remove the foundation drain or move the outfall back at least 35 feet from the Palmer leachfield and at least 35 feet from the present leachfield located on the Property.

Please address any correspondence to:

Richard J. de Seve, Compliance Supervisor
DES Water Division - Subsurface Systems Bureau
PO Box 95, 6 Hazen Drive
Concord, NH 03302-0095

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Brendan Forsley of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 485-A:43 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Brendan Forsley remains obligated to comply with all applicable requirements. DES will continue to monitor Brendan Forsley's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Grafton County Registry of Deeds so as to run with the land.


Harry T. Stewart, P.E., Director
Water Division


Robert W. Varney, Commissioner

Certified Mail/RRR: 7099 3400 0003 0695 9194

cc: Honorable R. Burton, Executive Council
Gretchen Rule, DES Enforcement Coordinator
Public Information Officer, DES PIP Office
NH AGO
Board of Selectmen, Town of Bristol
R. Curdie, Health Officer, Town of Bristol
W. Hopkins, Esq.